



STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA
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JUDY CHU, Ph.D.
Fourth District, Los Angeles

JOHN CHIANG
State Controller

RAMON J. HIRSIG
Executive Director

**STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
August 19-20, 2008
NOTICE AND AGENDA
Meeting Agenda (as of 2:15 p.m., 08/15/08)**

Agenda Changes

Webcast Audio on Tuesday, August 19, 2008

Tuesday, August 19, 2008

**9:30 a.m. Board Committee Meeting Convenes*
Board Meeting Convenes upon Adjournment of the Board Committee Meetings****

Agenda items occur in the order in which they appear on the agenda. When circumstances warrant, the Board's Chair, Dr. Chu, may modify the order of the items on the agenda. Items may be postponed to a subsequent day; however, items will not be moved to an earlier day.

Board Committee Meetings*

~~Property Tax Committee~~.....~~Ms. Steel, Committee Chair~~

- ~~1. Proposed Inclusion of Economic Lives in Assessors' Handbook Section 581, and Proposed Guidelines and Petition Procedures for Future Valuation Factor Studies for Specific Industries and Equipment.~~

Customer Services and Administrative

Efficiency Committee Mr. Leonard, Committee Chair

1. Update regarding the programming changes to include the new security deposit release criteria and the revisions made to the Compliance Policy and Procedures Manual, Chapter 4, *Security*.
2. E-Services Update
Update regarding the Board of Equalization's electronic services (e-services) projects, activities, and outreach efforts since the March 18, 2008 Board meeting.

Board Meeting****A. Homeowner and Renter Property Tax Assistance Hearings**

There are no items for this matter.

B. Corporate Franchise and Personal Income Tax Hearings

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

B1. Devry, Inc., 357029

For Appellant: Marty Dakessian, Attorney
Jon A. Sperring, Representative
LaShelle Wilson, Representative
For Franchise Tax Board: Ann Hodges, Tax Counsel

B2. James F. Montgomery and Diane Montgomery, 309423

For Appellant: James Montgomery, Taxpayer
Charles Moll, Attorney
For Franchise Tax Board: John Penfield, Tax Counsel

B3. Dennis A. Adams and Sandra E. Adams, 423981

For Appellant: Dennis A. Adams, Taxpayer
Sandra E. Adams, Taxpayer
For Franchise Tax Board: Irina Krasavtseva, Tax Counsel

B4. David W. Sanders and Mary E. Raigosa, 400374

For Appellant: David Sanders, Taxpayer
Mary Raigosa, Taxpayer
Laura Lee George, Representative
For Franchise Tax Board: Natasha Page, Tax Counsel

~~B5. Yu Hee Kim, 401345~~

~~For Appellant: Yu Hee Stacy Kim, Taxpayer
For Franchise Tax Board: Mark McEvilly, Tax Counsel~~

B6. Craig A. Cook, 406121

For Appellant: Craig Cook, Taxpayer
For Franchise Tax Board: Mark McEvilly, Tax Counsel

1:30 p.m. Board Meeting Reconvenes****B. Corporate Franchise and Personal Income Tax Hearing**

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

B7. Helmut D. Mees and Rebecca Mees, 405246

For Appellant: Giovanni Bellini, Accountant
For Franchise Tax Board: Maria Brosterhous, Tax Counsel

C. Sales and Use Tax Appeals Hearings

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

C1. Abbas Hussain, 396500 (GH)

For Petitioner: Abbas Hussain, Taxpayer
Lawrence Jacobson, Attorney
Jim Speed, Representative

For Department: Christine Bisauta, Tax Counsel

C2. Gordon Randall Bingham, 397938 (KH)

For Petitioner: Gordon R. Bingham, Taxpayer
Rex Halverson, Attorney
Tyrone Mommsen, Witness
Kerry Carlin, Witness

For Department: Stephen Smith, Tax Counsel

D. Special Taxes Appeals Hearings
There are no items for this matter.**E. Property Tax Appeals Hearings**

These items are scheduled for Wednesday, August 20, 2008.

F. Public Hearings
There are no items for this matter.**G. Tax Program Nonappearance Matters – Consent**(Contribution Disclosure forms not required pursuant to Gov. Code § 15626.)**G1. Legal Appeals MattersMr. Levine**

- Petitions for Rehearing
 1. The Customer Company, 113119 (JH)
 2. The Auto Store of Merced, Inc., 168200 (KH)
- Hearing Notices Sent – No Response
 3. Anita Maltoni, 295968 (BH)
 4. Karim Zuhair Bustami, 339131 (BH)
- Hearing Notices Sent – Appearance Waived
 5. HK Systems, Inc., 299485 (OH)
 6. Lacerta Enterprises, Inc., 138602, 313098 (OH)
- Petition for Release of Seized Property
 7. Brown's Market, Inc., 443075 (ET)

G2. Franchise and Income Tax MattersMs. Kelly

- Decisions
 1. Pacific Biokinetics Corporation, 397694
 2. Sueann E. Sherry and Robert L. Shaw (Deceased), 379689

G3. Homeowner and Renter Property Tax**Assistance Matters.....Ms. Kelly**

- Decisions
 1. Pamela Frye, 374537
 2. Martin Anthony Herrera, 394484
 3. Alphonso Scott, 424266
 4. Patricia A. Williams, 389597

G4. Sales and Use Taxes Matters Ms. Henry

- Redeterminations
 1. Modtech, Inc., 418661 (EH)
 2. Fieldturf International, Inc., 416633 (OH)
- Relief of Penalty/Interest
 3. Bebe Stores, Inc., 444078 (BH)
 4. United Aviation Fuels Corp., 447811 (OH)
 5. Hughes Markets, Inc., 446510 (AA)
 6. DVDPlay, Inc., 447840 (GH)
 7. Avalon Eyewear, Inc., 447328 (OH)
 8. Steve & Barry's California, LLC, 447311 (OH)
 9. GTE.Net, LLC, 446488 (OH)
- Denial of Claim for Refund
 10. ACC Consumer Finance, LLC, 447757 (FH)

G5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds..... Ms. Henry

- Credits and Cancellations
 1. The Legacy Estates Group, LLC, 447382 (JH)
 2. Alegria C. Phankonsy, 447536, (EH)
 3. CIM/H&H Hotel, LP, 447161 (AS)
 4. Kevork Ohannes Aposhian, 447324 (AC)
- Refunds
 5. Cibola Systems Corporation, 445632 (EA)
 6. Oakley, Inc., 446457 (EA)
 7. Chevron U.S.A., Inc., 446158 (BH)
 8. Investor's Business Daily, Inc., 447785 (AS)
 9. Gottschalks, Inc., 441170 (KH)
 10. Toshiba America Info.Sys., Inc., 395952 (EA)
 11. Coherent, Inc., 349725 (GH)
 12. Bel Air Mart, 306014 (JH)
 13. Barbosa Cabinets, Inc., 393424 (KH)
 14. The Glidden Company, 351321 (OH)
 15. Ford Motor Company, 446014 (OH)
 16. Chevrolet Motor Division, 446016 (OH)
 17. Motel 6 Operating, LP, 443732 (OH)
 18. Trellis Systems Corporation, 436330 (GH)
 19. Bazooka, Inc., 446458 (EA)
 20. Oakley Sales Corp., 446459 (EA)
 21. Raley's, 306122 (JH)

22. Northrop Grumman Guidance and Electronics Co, Inc., 441180 (AC)
23. Ford Motor Credit Company, 442176 (OH)
24. Brinker Restaurant Corporation, 445767 (OH)
25. Americredit Financial Service, Inc., 435154 (OH)
26. General Chemical Performance Products, LLC, 347467 (OH)
27. ACC Consumer Finance, LLC, 340424 (FH)
28. Financial Partners Credit Union, 404544 (AA)

G6. Special Taxes Matters

There are no items for this matter.

G7. Special Taxes Matters – Credits, Cancellations, and Refunds..... Mr. Gau

➤ Refunds

1. Equilon Enterprises, LLC, 400598 (MT) “CF”
2. State Compensation Insurance Fund, 384552 (ET) “CF”
3. John Hancock Life Insurance Company, 442045 (ET) “CF”
4. John Hancock Variable Life Insurance Co., 442047 (ET) “CF”
5. United Concordia Insurance Co., 448725 (ET) “CF”
6. MetLife Investors Insurance Co., 448977 (ET) “CF”

There are no items for these matters

G8. Property Tax Matters

G9. Cigarette License Fee Matters

G10. Legal Appeals Property Tax Matters

H. Tax Program Nonappearance Matters – Adjudicatory

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

H1. Legal Appeals Matters Mr. Levine

➤ Cases Heard But Not Decided

1. Hyundai Motor America, 331894 (EA)
2. Michael Richard Luna, 356507 (KH)
3. Marcella Maria Rosales, 308469 (KH)

H2. Franchise and Income Tax Matters..... Ms. Kelly

➤ Decisions

1. Terry N. Black, 355231
2. Sandras Clark, 355234
3. Robin J. Steele. 342595
4. Jill R. Usher, 360378

H3. Homeowner and Renter Property Tax Assistance Matters

There are no items for this matter.

H4. Sales and Use Taxes Matters Ms. Henry

➤ Relief of Penalty/Interest

1. Paramount Pictures Corporation, 446159 (AS)

H5 Sales and Use Taxes Matters – Credits, Cancellations, and Refunds..... Ms. Henry

- Refund
 1. Chevron U.S.A., Inc., 156080 (BH)

H6. Special Taxes Matters Mr. Gau

- Redetermination
 1. Conco Paint Company, 346956 (MT)

H7. Special Taxes Matters – Credits, Cancellations, and Refunds..... Mr. Gau

- Credit and Cancellation
 1. Conco Paint Company, 435335 (MT)

There are no items for these matters

H8. Property Tax Matters

H9. Cigarette License Fee Matters

H10. Legal Appeals Property Tax Matters

I. Tax Program Nonappearance Matters

(Contribution Disclosure forms not required pursuant to Gov. Code § 15626.)

- I1. Property Tax Matters
There are no items for this matter

I2. Offers-in-Compromise Recommendations Ms. Ogrod/Ms. Fong

1. Natalie Cintas-Gladnick
2. Sheolly Lynell Woolridge
3. Pablo G. Alfero
4. Rodolfo Suarez and Mercedes Suarez

Chief Counsel Matters

The following items are scheduled for Wednesday, August 20, 2008.

- J. Rulemaking
- K. Business Taxes
- L. Property Taxes
- M. Other Chief Counsel Matters

Administrative Session

The following items are scheduled for Wednesday, August 20, 2008.

- N. Consent Agenda
- O. Adoption of Board Committee Reports and Approval of Committee Actions
- P. Other Administrative Matters

Q. Closed Session

These items are scheduled for Wednesday, August 20, 2008.

Adjourn - The meeting will reconvene on Wednesday, August 20, 2008, at 9:30 a.m.

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The hearing location is accessible to people with disabilities. Please contact Claudia Madrigal at (916) 324-8261, or e-mail Claudia.Madrigal@boe.ca.gov if you require special assistance.

Diane G. Olson, Chief
Board Proceedings Division

- * Public comment on any committee agenda item will be accepted at the beginning of the committee meeting.
- ** Public comment on any agenda item, other than a Closed Session item or an item which has already been considered by a Board Committee, will be accepted at that meeting.
- + Material is available for this Item.
- ++ Material will be available at a later date.
- "CF" Constitutional Function – The Deputy State Controller may not participate in this matter under Government Code section 7.9.



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C. Sales and Use Tax Appeals Hearings

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

C3. Mehdi Behmard, 106372 (KH)

For Petitioner: Mehdi Behmard, Taxpayer

For Department: Kevin Hanks, Hearing Representative

~~C4. Convenience Acquisition Company, LLC, 236133 (KH)~~

~~For Petitioner: Robert Matthews, Taxpayer~~

~~Robert Frost, Taxpayer~~

~~Eric Miethke, Attorney~~

~~For Department: Kevin Hanks, Hearing Representative~~

E. Property Tax Appeals Hearings

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

Welfare Exemption Claims

E1. Nehemiah Corporation of America, 403977

For Claimant: Chris V. Chediak, Attorney

Louis A. Gonzalez, Jr., Attorney

Glenda R. Claremon, Attorney

For Department: Daniel Paul, Tax Counsel

- E2. Spaulding Center for Wooden Boats, 403978
 For Claimant: Mark Welther, Taxpayer
 Michael Wiener, Taxpayer
 Thomas S. Wrobel, Attorney
 For Department: Andrew Jacobson, Tax Counsel

Chief Counsel Matters

J. Rulemaking

Section 100 Changes to Regulations

- J1. Proposed Amendments to Sales and Use Tax Regulation 1574,
Vending Machine Operators+ Mr. Treichelt

The proposed amendments would update the percentages in the table used by vending machine operators to compute taxable sales to reflect the most current tax rates.

- J2. Adoption of Proposed Amendments to Sales and Use Tax Regulation
 1599, *Coins and Bullion*+ Mr. Treichelt

The proposed amendments would increase the coins and bullion bulk sales exemption threshold to \$1,500 effective January 1, 2009 (Revenue and Taxation Code section 6355).

There are no items for the following matters:

- K. Business Taxes
 L. Property Taxes

M. Other Chief Counsel Matters

- M1. *Loeffler et al. (Appellants) v. Target Corp. (Respondents)*+.... Mr. Lambert/
 Second District Court of Appeal No. B199287 Los Angeles Mr. Waid
 Superior Court No. 360004

Request approval to file amicus curiae brief on the question of whether or not a customer may sue a retailer under the Unfair Competition Law (Bus. & Prof. Code, secs. 17200 et seq.) for allegedly collecting sales tax reimbursement on a nontaxable transaction.

- M2. Eagle Lodge West Conference 2008+ Mr. Moon/
 Mr. Bradley Marsh

Report from the California State Bar's State & Local Tax Committee on the results of the conference among government and private tax practitioner.

Administrative Session

N. Consent Agenda Ms. Olson

N1. Retirement Resolutions+

- Marilyn Hubbard
- Richard C. Loe
- Richard E. Passalacqua
- Oveta Riffle

N2. Approval of Board Meeting Minutes+

- July 8, 2008

N3. Adoption of Property Tax Forms+

- BOE-58-AH *Claim for Reassessment Exclusion for Transfer Between Parent and Child*
- BOE-58-G *Claim for Reassessment Exclusion for Transfer from Grandparent to Grandchild*
- BOE-62-DP *Claim for Reassessment Reversal for Registered Domestic Partners*
- BOE-65-P *Claim for Intracounty Transfer of Base Year Value for Property Damaged or Destroyed in a Governor-Declared Disaster to Replacement Property*
- BOE-67-A *Notice of Supplemental Assessment (Counties without Section 1605(c) Provisions)*
- BOE-67-B *Notice of Supplemental Assessment (Counties with Section 1605 (c) Provisions)*
- BOE-260 *20_Certificate and Affidavit for Exemption of Work of Art*
- BOE-260-A *20_Certificate and Affidavit for Exemption of Certain Aircraft*
- BOE-261-G *20_Claim for Disabled Veterans' Property Tax Exemption*
- BOE-261-GNT *2009 Disabled Veterans' Exemption Change of Eligibility Report*
- BOE-267 *Claim for Welfare Exemption (First Filing)*
- BOE-267-A *20_Claim for Welfare Exemption (Annual Filing)*
- BOE-267-L *Welfare Exemption Supplemental Affidavit, Housing-Lower-Income Households*
- BOE-267-L1 *Welfare Exemption Supplemental Affidavit, Low-Income Housing Property of Limited Partnership*
- BOE-277 *Claim for Organizational Clearance Certificate-Welfare Exemption*
- BOE-277-L1 *Claim for Supplemental Clearance Certificate for Limited Partnership, Low-Income Housing Property-Welfare Exemption*
- BOE-277-LLC *Claim for Organizational Clearance Certificate-Welfare Exemption-Limited Liability Company*

- BOE-278-OCC *Verification for Continued Eligibility of Organizational Clearance Certificate-Welfare or Veterans' Organization Exemption*
- BOE-278-SCC *Verification for Continued Eligibility of Supplemental Clearance Certificate-Welfare Exemption*
- BOE-279 *Claim for Organizational Clearance Certificate-Veterans' Organization Exemption*
- BOE-502-AH *Change of Ownership Statement, Real Property or Manufactured Homes Subject to Local Property Taxes*
- BOE-502-D *Change in Ownership Statement, Death of Real Property Owner*
- BOE-576-D *Vessel Property Statement for 2009*
- BOE-577 *2009 Aircraft Property Statement*
- BOE-577-A *20_Airport Operations Report*

N4. Approval of Proposed Revisions to Audit Manual Chapter 4, *General Audit Procedures*, and Chapter 5, *Penalties*

Revise various sections to incorporate current policy and procedures and maintain the manual up to date.

O. Adoption of Board Committee Reports and Approval of Committee Actions

~~O1. Property Tax Committee~~

O2. Customer Services and Administrative Efficiency Committee

P. Other Administrative Matters

There are no items for these matters:

P1. Executive Director's Report

P2. Chief Counsel Report

P3. Deputy Director's Report

a. Sales and Use Tax

There are no items for this matter.

b. Property and Special TaxesMr. Gau

1. Status Report on Implementation of the Flavored Malt Beverage Regulations

Staff to report on the implementation plan for the Flavored Malt Beverages Regulations: Regulation 2558, *Distilled Spirits*; Regulation 2559, *Presumption – Distilled Spirits*; Regulation 2559.1; *Rebuttable Presumption – Distilled Spirits*; Regulation 2559.3, *Internet List*; and Regulation 2559.5, *Correct Classification*

c. Administration..... Ms. Houser+**1. Facilities Update+**

Our DGS representative will provide a status of on-going BOE repair projects. BOE will provide an update on the Headquarters Space Assessment and the Santa Ana/Laguna Hills consolidation and move.

2. Governor's Executive Order S-09-08

Status of the [Governor's Executive Order](#), the [State Controller's response](#), and direction from the Board.+

3. Budget Update 2008/09

Current status of the 2008/09 Budget including the Newly Proposed Amnesty Program and 1% Sales Tax Increase.

4. Fiscal Year 2009-2010 Draft Budget Change Proposals+

Presentation of the 2009/10 proposed draft budget change proposals for the Board's approval.

Sales and Use Tax

- [U.S. Customs Program+](#)
- [Out-of-State Audits and Registration+](#)

Property and Special Taxes

- [Environmental Stewardship Program+](#)
- [Natural Gas Public Purpose Programs Surcharge+](#)
- [Flavored Malt Beverages+](#)
- [Cigarette and Tobacco Enforcement+](#)

Legal/Executive/Administration

- [Administrative Appeals+](#)
- [Tax Refund Litigation+](#)
- [Facilities – Headquarters+](#)

Announcement of Closed Session Ms. Olson**Q. Closed Session**

- Q1. Discussion and approval of staff recommendations regarding settlement cases (Rev. & Tax. Code §§ 6901, 7093.5, 30459.1 and 50156.11)
- Q2. Pending litigation: *Jonathan Harris v. Claude Parrish*, Los Angeles County Superior Court Case No. NC039710; and *Jonathan Harris v. The State Board of Equalization and Claude Parrish*, Los Angeles County Superior Court Case No. NC050640 (Gov. Code § 11126(e))
- Q3. Pending litigation: *Nortel Networks, Inc. v. State Board of Equalization*, Los Angeles County Superior Court Case Number BC341568L (Gov. Code § 11126(e))

- Q4. Pending litigation: *Schroeder, et al. v. Board of Equalization, et al.* Sacramento Superior Court Case #34-2008-00004467-CU-MT-GDS (Gov. Code § 11126(e)(2)(B)(i)); *Frankot, et al. v. Board of Equalization, et al.*, Sacramento Superior Court Case #34-2008-00012174-CU-PO-GDS (Gov. Code § 11126(e)(2)(B)(i)); and *Allen, et al. v. Board of Equalization, et al.*, Sacramento Superior Court Case #34-2008-00017014-CU-TT-GDS (Gov. Code § 11126(e)(2)(B)(i))
- Q5. Discussion and action on personnel matters (Gov. Code § 11126(a))

Announcement of Open Session Ms. Olson

Adjourn

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